



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 MAR 22 P 3:35

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. S16-03

PETITION OF ONE FRAMINGHAM CENTRE LLC

DATE OF DECISION: MARCH 8, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board), acting as the Sign Appeals Board, on the Application of ONE FRAMINGHAM CENTRE LLC (hereinafter the Applicant), for property located at 1 EDGELL ROAD (hereinafter the Site). This Decision is in response to an APPEAL of the Building Commissioner's determination of an architectural feature constituting a sign AND a Petition for VARIANCES to install two new wall signs which do not conform to the requirements of the Sign Bylaw (hereinafter the Application).

2. Appellant/Applicant & Property Owner

One Framingham Centre LLC
62 Washington Ave
Chelsea, MA 02150

3. Location

Property is located at 1 Edgell Road and is identified by Assessors' Parcel ID 090-44-0682-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on March 8, 2016, the Board voted to GRANT the requested APPEAL and OVERTURN the Building Commissioner's decision and GRANT the requested VARIANCES by a unanimous vote of three (3) members sitting on the Application. The record of the vote is stated as follows:

EDWARD COSGROVE	YES
KEVIN GATLIN	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on January 27, 2016 pursuant to the Town of Framingham's Sign Bylaw, Article VII of the General Bylaws. A duly-noticed public hearing was held by the Board on the Application on March 8, 2016 at 7:30 P.M. in the Blumer Community Room of the Memorial Building. Board Members Edward Cosgrove, Kevin Gatlin, Joseph Norton, and Alternate Philip R. Ottaviani, Jr. were present throughout the proceedings. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

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6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1 Application filed with the Building Official for a permit to install a new wall sign for tenant Kitchen Center, dated January 20, 2016.
 - 6.2 Sign renderings, entitled "A1a" and "A1b", prepared by Architectural Graphics & Signs, Inc., 73 Oakland St, Watertown, MA, stamped "Received" by the Zoning Board Office on January 27, 2016.
 - 6.3 Application filed with the Building Official for a permit to install a new wall sign for tenant Volturmo Pizza, dated February 10, 2016.
 - 6.4 Sign renderings, entitled "Curved Fascia Graphics", prepared by Serrato Signs LLC, 15 Dewey St., Worcester, MA, dated February 9, 2016.
 - 6.5 Application filed with the Building Official for a permit for the architectural "1" on the façade, dated February 11, 2016.
 - 6.6 Sign rendering and in-progress photo of the "1" on the façade, stamped "Received" by the Zoning Board Office on January 27, 2016.
 - 6.7 Site plan, entitled "Site Redevelopment Concept", prepared by LR Designs, Inc., 64 Allston St. Suite 3, Cambridge, MA, dated February 9, 2016.
 - 6.8 Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on February 16, 2016.
 - 6.9 Filing fee in the amount of \$250.00.
 - 6.10 A memorandum from the Applicant in support of their petition, received June 10, 2014.
- Exhibits 6.2, 6.4, 6.6, and 6.7 shall hereinafter be referred to as "the Plans".

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1 The property is located within the Business B-1 zoning district.
- 7.2 On January 20, 2016, the Applicant applied for a permit to install a second wall sign on the East façade for tenant Kitchen Center.
- 7.3 On February 10, 2016, the Applicant applied for a permit to install a second wall sign on the West façade for tenant Volturmo Pizza.
- 7.4 On February 11, 2016, the Applicant applied for a permit for the 25' "1" to be constructed on the North façade.
- 7.5 On February 16, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of Appealing the decision of the Building Official regarding the "1" and requesting Variances for the Kitchen Center and Volturmo wall signs.

- 7.6 Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on February 21 and 28, 2016, and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting members or residents were present regarding the petition.
- 7.7 The Applicant seeks authorization to construct the "1" on the North façade as shown in the Plans. The Applicant contends that the "1" does not constitute a "sign" or a "wall sign" as defined in Sections 1.4.45 and 1.4.54 of the Sign Bylaw.
- 7.8 Per Section 1.4.45, a sign is defined as *"Any letter, number, word, address, symbol, drawing, picture, design, device, article or object, regardless of the material and manner of composition or construction, that has the **primary purpose** of identifying or indicating any premises, products, businesses, uses or activities"*. The Applicant contends the "1" was always intended purely as a decorative element since "the unique condition of this site, in which entries of the shops and offices at Five Edgell Road and a small public courtyard face this elevation, a blank façade [on the new elevator shaft] would have been aesthetically unappealing". The Applicant stated that "because this decorative element faces the buildings of Five Edgell Road, it is not intended to be viewed by the public at large" and therefore does not have a primary purpose of a sign.
- 7.9 Section 1.4.54 defines a wall sign as *"a sign **affixed** to the façade of a building, including but not limited to awning signs, bracket/projecting signs, canopy/marquee/portico signs and channel letters"*. The Applicant stated that the "1" is not "affixed" to the façade, but is part of the building itself; created by the absence of horizontal siding in which the void gives the appearance of a number one.
- 7.10 A discussion by the Board ensued as to whether or not the "1" constitutes a sign per the definition in the sign bylaw; i.e. whether or not it had "...the primary purpose of identifying or indicating any premises, products, businesses, uses or activities." The Board found the following aspects to be relevant: (a) the "1" is a design element, providing visual interest on what would otherwise be a tall, blank wall; and, (b) the "1" does not benefit or identify any individual tenants or the plaza as a whole.
- 7.11 After the Board concluded its deliberations the Board voted unanimously to GRANT the requested APPEAL and overturn the decision of the Building Commissioner that the "1" is a sign per the definition in the sign Bylaw. The Board opined that the "1" does not have the "primary purpose" of identifying or indicating any business on the site and is therefore not a sign within the meaning of 1.4.45 of the sign by-law. This approval is subject to the following condition:
- 7.11.1 The façade visible due to the absence of siding panels in the shape of a number one (1) shall be completed to have the appearance of brown stucco so as to provide only a subtle contrast with siding of the building.
- 7.12 The Applicant is also seeking approval of Variances to the Sign Bylaw to install two new wall signs - one for each of two tenants, Kitchen Center and Volturno Pizza - that do not conform to the dimensions allowed per the bylaw.
- 7.13 The Building Official denied the Kitchen Center wall sign under Section 1.10.2.2 which regulates *Wall Signs for Single Businesses with Additional Entrances*. It states "...the sign

shall not exceed 8 inches in height and 3 feet in width". The requested sign has letters 10 inches in height and is 12.7 feet in width.

- 7.14 The Applicant explained that Kitchen Center originally had three (3) box signs and would now become more compliant since this would be the second, and final, sign for the tenant. Additionally, the Applicant stressed that this tenant is located partially below grade, therefore, signage is critical for customer navigation. The primary sign has been installed over the main entrance to the business which is on the North façade of the building. The secondary sign is requested for the East façade which faces the main parking lot and will match the size and scale of the other signs on the East façade. This sign will allow customers to safely navigate the site from the parking lot.
- 7.15 Discussion ensued regarding the possible applicability of Section 1.10.2.1(d) which allows a second, rear sign with maximum sign face area to not exceed 30% of the area of the front entrance sign. Various Board members praised the improvements made to the site, including: the addition of an elevator; redesign of the courtyard north of 1 Edgell Road; and replacement of the box-style tenant signs with internally-illuminated, channel letter signs. The Applicant stated that the overall number of signs on the property has decreased.
- 7.16 The Variance standard established by the Town of Framingham's Sign Bylaw, §1.12.2.b is a demanding criterion. A Variance may be granted from the limitations imposed by the Sign Bylaw if it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street, or the topography of the land are such that said Variance may be permitted without being contrary to the public good. The Applicant must demonstrate that compliance with the Bylaw presents a hardship to the Applicant. The hardship must relate exclusively to the specific and unique circumstance of the situation faced by the Applicant, and not apply generally to other land, buildings or structures in the same zoning district.
- 7.17 The Board finds that the nature of the use of the premises is such that a variance may be permitted without being contrary to the public good. *The property is zoned and used for business on a heavily traveled roadway.*
- 7.18 The Board finds that relief from the Sign Bylaw can be granted without substantial detriment to the public good and surrounding properties, and without degradation of the neighborhood's visual environment. *The overall decrease in number of signs on the property and the improvement in design will improve, not degrade, the neighborhood's visual environment.*
- 7.19 The Board therefore moved to APPROVE the Variance for the Kitchen Center sign, subject to the following condition:
- 7.19.1 The sign shall be constructed and installed as shown on the Plan such that the second Kitchen Center sign is similar in scale to the other tenant signs facing the parking lot facing east.
- 7.20 The Building Official denied the Volturno Pizza wall sign under Section 1.10.2 Chart 1 which regulates maximum letter size based upon building setback. For a building

setback 25 feet, the maximum allowed channel letter height is 18 inches. The requested sign has a letter "V" at 24 inches in height and the remaining letters "olturno" at 14 inches.

7.21 The Applicant explained that only the capital letter "V" is non-compliant and the remaining letters are actually shorter than the maximum allowed height of 18".

7.22 Mr. Gatlin stated that its important to look at the sign as a whole. Mr. Ottaviani expressed his approval of the sign, stating that while the "V" is larger, the Applicant is actually giving up height on the remaining letters.

7.23 The Variance standard established by the Town of Framingham's Sign Bylaw, §1.12.2.b is a demanding criterion. A Variance may be granted from the limitations imposed by the Sign Bylaw if it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street, or the topography of the land are such that said Variance may be permitted without being contrary to the public good. The Applicant must demonstrate that compliance with the Bylaw presents a hardship to the Applicant. The hardship must relate exclusively to the specific and unique circumstance of the situation faced by the Applicant, and not apply generally to other land, buildings or structures in the same zoning district.

7.24 The Board finds that the nature of the use of the premises is such that a variance may be permitted without being contrary to the public good. *The property is zoned and used for business on a heavily traveled roadway.*

7.25 The Board finds that relief from the Sign Bylaw can be granted without substantial detriment to the public good and surrounding properties, and without degradation of the neighborhood's visual environment. *The requested variance is minimal and will result in a sign that remains below the total maximum sign face area that would be allowed with no degradation of the neighborhood's visual environment.*

7.26 The Board therefore moved to APPROVE the Variance for the Volturno Pizza sign, subject to the following condition:

7.26.1 The sign shall be constructed and installed as shown on the Plan.

8. Appeals

Appeals, if any, shall be made pursuant to Sign Bylaw, section 1.12.6.f. and shall be filed within sixty (60) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: _____

Edward Cosgrove, Chairman
Sign Appeals Board